

RECEIVED

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

DEC - 7 1992

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In Re)	
)	
Amendment of Section 73.202(b))	MM Docket No. 92-194
)	
Table of Allotments,)	RM-8052
FM Broadcast Stations)	
(Essex, CA))	

To: The Chief, Allocations Branch

**REPLY COMMENTS OF DUNES BROADCASTING
TO COUNTERPROPOSAL**

Dunes Broadcasting ("Dunes"), pursuant to the Commission's Public Notice (Report No. 1918), released November 20, 1992, hereby respectfully submits its reply comments directed to the counterproposal of David A. Petrik.^{1/} In reply to Mr. Petrik's counterproposal, the following is respectfully shown:

1. Mr. Petrik's counterproposal is to allot Channel 280B to Needles in lieu of Essex. He concedes, however, that his proposal would require the substitution of Channel 242A for Channel 280A at

^{1/}Dunes already filed reply comments on November 16 directed to the portion of Mr. Petrik's pleading which was in the nature of comments on the Dunes proposal. On November 16, 1992, Mr. Petrik filed his own reply comments to the Dunes proposal in which he purported to demonstrate that Essex did not qualify as a community for FM allotment purposes. Although the scope of the instant reply comments is limited to Mr. Petrik's counterproposal, it should perhaps be noted that Mr. Petrik's attempts to denigrate Essex as a licensable community must fail; the Commission's determination that Essex was indeed a licensable community is barely three years old and, in any event, was not premised exclusively upon the attributes of Essex itself, but rather upon the need for the surrounding area to receive radio service, a need which the Commission felt was well within its discretion to redress through an allocation to Essex. Essex, California, 4 FCC Rcd 8084 (1989) at ¶ 6.

No. of Copies rec'd
List A B C D E

014

Bagdad, Arizona. It would appear that final comments in the Bagdad allotment proceeding were due over six months ago. Accordingly, implementation of Mr. Petrik's counterproposal would have the immediate effect of disrupting the Bagdad allocation proceeding.

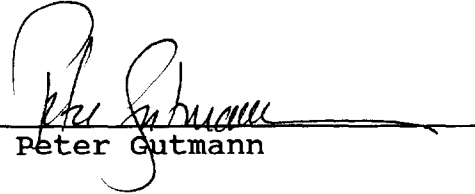
2. In an effort to accommodate both expressions of interest while avoiding undue disruption to Bagdad, Dunes has caused to be prepared and is filing herewith a technical statement demonstrating that Channel 296B is available for allotment to Needles in full compliance with all Commission separation and coverage requirements. Accordingly, it would appear that the best resolution of this proceeding is to allot Channel 280B to Essex, as proposed, and to allot Channel 296B to Needles. In that way, both Dunes and Mr. Petrik can proceed as they have proposed and the public interest benefits which attach to both the proposal and counterproposal can be achieved.

3. In view of the foregoing, and for the reasons previously presented in Dunes' comments and November 16 reply comments, Dunes respectfully submits that the Commission proceed with allotting Channel 280B to Essex, California. In addition, Dunes supports the counterproposal of David A. Petrik to the extent that an alternate channel such as Channel 296B can be allotted to Needles so as not to conflict with the allotment of Channel 280B to Essex.

Respectfully submitted,

DUNES BROADCASTING

By: _____

A handwritten signature in dark ink, appearing to read "Peter Gutmann", is written over a horizontal line.

Peter Gutmann

Its Attorney

PEPPER & CORAZZINI
1776 K Street, N.W.
Suite 200
Washington, D.C. 20006
(202) 296-0600

December 7, 1992

TECHNICAL STATEMENT
IN SUPPORT OF REPLY COMMENTS OF
DUNES BROADCASTING
IN THE NOTICE OF PROPOSED RULE MAKING
IN MM DOCKET NO. 92-194
ESSEX AND NEEDLES, CALIFORNIA

This technical statement and associated exhibits have been prepared on behalf of Dunes Broadcasting (herein "Dunes") to provide technical information in support of reply comments being filed in response to the Federal Communications Commission Notice of Proposed Rule Making in MM Docket No. 92-194 (Notice). This Notice was issued in response to the Petition for Rule Making (RM-6962) filed by Dunes requesting the allotment of channel 280B to Essex as that community's second local FM service.

Comments and a counterproposal were filed by David A. Petrick (herein "Petrick") which requested that channel 280B be allotted to Needles, California (RM-8121). The availability of channel 280B at Needles, which conflicts with the Dunes proposal to allot channel 280B to Essex, also requires the substitution of channel 242A for the pending petition for rule making to allot channel 280A at Bagdad, Arizona (MM Docket No. 92-49, RM-7922). Furthermore, the availability of channel 280B at Needles requires a site restriction of approximately 23 kilometers northwest of the Needles reference coordinates contained in the Index to the USGS National Atlas (Latitude 34°50'36", Longitude 114°36'54").

Dunes hereby requests, in addition to the allotment of channel 280B to Essex, the allotment of

channel 296B to Needles as a counterproposal to the Petrick channel 280B proposal. The proposed changes are as follows:

<u>City</u>	<u>Present</u>	<u>Proposed</u>
Essex, California	255B	255B, 280B
Needles, California	250C1	250C1, 296B

Compliance With Commission Rules

Figure 1 is a separation study for channel 296B from the Needles reference coordinates and, as shown, the reference coordinates comply with the Commission's minimum distance separation requirements contained in 47 CFR 73.207 with respect to all existing, authorized and proposed stations and allotments. Furthermore, the availability of channel 296B does not require any channel substitutions.⁴¹

Based on maximum Class B facilities of an effective radiated power of 50 kW and an antenna height above average terrain of 150 meters, the distance to the 70 dBu (3.16 mV/m) city grade contour is approximately 32 kilometers (20 miles). The Needles reference coordinates are located within the Needles city limits as defined by the 1990 U.S. Census and the maximum width of the city is less than 19 kilometers (12 miles). Therefore, the proposal would comply with the Commission's city coverage requirements contained in 47 CFR 73.315.

⁴¹It has been previously demonstrated by Dunes in MM Docket No. 92-194 that the Essex channel 280B allotment proposal complies with the Commission's rules.

Figure 2 is a separation study for Channel 296B at Needles from reference coordinates for the channel 280B counterproposal set forth in Petrick's reply comments. As shown, this site also complies with the Commission's minimum distance separation requirements contained in 47 CFR 73.207 with respect to all existing, authorized and proposed stations and allotments for channel 296B.

In conclusion, channel 296B is available for allotment to Needles at both the USGS reference coordinates and the reference coordinates for Petrick's channel 280B counterproposal. In addition, the availability of channel 296B does not require any channel substitutions and does not conflict with any other known existing, authorized or proposed station or allotment.

W. Jeffrey Reynolds

W. Jeffrey Reynolds

November 30, 1992

Figure 1

FM SEPARATION STUDY

Job Title :Needles Reference Coordinates Separation Buffer 32 km
 (From USGS Index to National Atlas) FCC DB Date : 09/28/92

Channel 296B (107.1 MHz) Coordinates : 34-50-36 114-36-54

Call Status	City State	Channel FCC File No.	Freq.	ERP(kW) HAAT(m)	Latitude Longitude	Bearing deg-Tru	Dist. (km)	Req. (km)
KRLV LIC	Las Vegas NV		293C 106.5	100. 352.0	36-00-30 115-00-20	344.8	134.04 29.04	105 CLEAR
KROR LIC	Yucca Valley CA		295B 106.9	4.0 418.0	34-04-55 116-20-32	242.4	179.79 10.79	169 CLOSE
TRANSLATOR FOR KNIXFM, Phoenix, AZ-To channel 246								
	Ciudad Morelos BN		296B 107.1		32-38-00 114-51-00	185.1	246.09 6.09	240 CLOSE
KQEH CPM	Lenwood CA		297A 107.3	0.34 235.0	34-58-13 117-02-19	274.3	221.95 108.95	113 CLEAR
Proposed to Mexico as B 10-4-90-Accepted by Mexico 910313								
KUDA APP	Pahrump NV		298C 107.5	25.0 1458.0	35-57-57 115-30-03	327.5	148.28 43.28	105 CLEAR
ERP exceeds maximum value for HAAT-HAAT MUST BE LESS OR EQUAL TO MAX HAAT								

** End of separation study for channel 296B **

Figure 2

FM SEPARATION STUDY

Job Title :Petrick Ch. 280B Site at Needles
(From RM-8121)

Separation Buffer 32 km
FCC DB Date : 09/28/92

Channel 296B (107.1 MHz)

Coordinates : 34-59-06 114-48-37

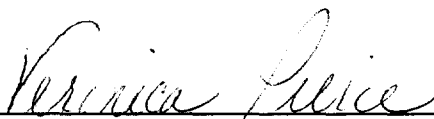
Call Status	City State	FCC File No.	Channel Freq.	ERP(kW) HAAT(m)	Latitude Longitude	Bearing deg-Tru	Dist. (km)	Req. (km)
KRLV	Las Vegas		293C	100.	36-00-30	351.2	114.92	105
LIC	NV	BLH870827KC	106.5	352.0	115-00-20		9.92	CLOSE
KROR	Yucca Valley		295B	4.0	34-04-55	234.8	172.68	169
LIC	CA	BLH880516KD	106.9	418.0	116-20-32		3.68	CLOSE
	Ciudad Morelos		296B		32-38-00	180.8	260.86	240
	BN		107.1	.0	114-51-00		20.86	CLEAR
KQEH	Lenwood		297A	0.34	34-58-13	270.2	203.49	113
CPM	CA	BMPH891214MQ	107.3	235.0	117-02-19		90.49	CLEAR
Proposed to Mexico as B 10-4-90-Accepted by Mexico 910313								
KUDA	Pahrump		298C	25.0	35-57-57	330.4	125.59	105
APP	NV	BPH920728IB	107.5	1458.0	115-30-03		20.59	CLEAR
ERP exceeds maximum value for HAAT-HAAT MUST BE LESS OR EQUAL TO MAX HAAT								
KUDA	Pahrump		298C	24.5	35-58-02	330.4	125.76	105
LIC	NV	BMLH890413KB	107.5	1136.0	115-30-06		20.76	CLEAR

** End of separation study for channel 296B **

CERTIFICATE OF SERVICE

I, Veronica Pierce, do certify that on this 7th day of December, 1992, I served copies of the foregoing "Reply Comments of Dunes Broadcasting to Counterproposal" by U.S. Mail upon the following:

Eric S. Kravetz, Esquire
Brown, Neitert & Kaufman, Chartered
1920 N Street, N.W.
Suite 660
Washington, D.C. 20036
(Counsel for David A. Petrik)



Veronica Pierce